

*REMARKS/ARGUMENTS**Restriction Requirement*

The Office Action sets forth a restriction requirement as follows:

I. Claims 1-15, drawn to compounds of formula I and their pharmaceutical compositions; and

II. Claims 16, 17, 31, 32, 40, and 41, drawn to pharmaceutical methods using Group I compounds and compositions.

Applicants affirm the provisional election of Group I claims for further prosecution. The election is with traverse. Applicants respectfully submit that there would not exist a serious burden on the Examiner to search and consider the claims of both groups since it is likely that the search results on the two groups would overlap significantly.

Claim Amendments

Claim 1 has been amended to include a proviso language stating that when R₁ or R₂ is alkyl, R₃ is not a phenyl group substituted with a halogen or a cyclic group having at least one 5-membered heterocyclic ring substituted with a halogen. The claim amendment is supported by the original specification and claims. Applicants are removing a subset of compounds that were clearly disclosed in the specification as originally filed. This is also supported by case law. See, e.g., *In re Johnson*, 194 USPQ 187 (CCPA 1977) (“If the applicant has a genus and some species, he or she ought to be able to claim the genus minus the disclosed species.”).

Claim 5 has been rewritten as an independent claim. Withdrawn claims 16, 31, and 40 have been amended to be dependent upon claim 1. New claims 49-58 have been added and are directed to embodiments of the invention falling within the elected Group I. New claims 59-64 have been added and are directed to embodiments falling within the non-elected invention.

Withdrawn claims 16, 17, 31, 32, 40, 41, and 59-64, which are dependent upon elected invention claims, are available for rejoinder.

Examiner Interview

Applicants wish to thank Examiner Cecilia Jaisle, J.D., for the courtesies extended to Xavier Pillai, one of Applicants' attorneys, during the telephone interview held on January 28, 2008. During the interview, the Examiner clarified that the word "chlorophenyl" appearing at page 7, line 2 of the Office Action should correctly be: --chlorothienyl--.

The Office Action

Claims 1-4 and 10-15 are rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over McMurry et al. (U.S. Patent 5,929,046).

Claims 5-9 are objected to as being dependent upon a rejected base claim. The Office Action indicates that these claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Discussion of Rejection

The Office Action states that McMurry et al. discloses certain pteridinamine compounds, e.g., [(bromothienyl) methoxy] pteridinamine and [(fluorophenyl)methoxy] pteridinamine], and alleges that the compounds of present formula I wherein R₁ and/or R₂ are lower alkyl are suggested by those McMurry et al. compounds. Applicants have amended claim 1 to expedite the prosecution of the application. Thus, claim 1 has been amended as discussed by including a proviso language. Thus, compounds wherein R₁ and/or R₂ are lower alkyl under the conditions of the new proviso language have been excluded. Accordingly, Applicants respectfully submit that the cited reference fails to suggest to those of ordinary skill in the art the presently claimed invention. The obviousness rejection of claims 1-4 and 10-15 should, therefore, be removed.

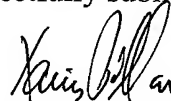
The Office Action indicated that claims 5-9 would be allowable if rewritten in independent form. Claim 5 has been now rewritten as an independent claim including all of the limitations of the base claim and any intervening claims. Claims 6-9 are dependent upon claim 5. Accordingly, these claims should be allowable. Claims 49-58 also should be allowable, as they are directly or ultimately dependent upon allowable claim 5.

Withdrawn claims 16, 17, 31, 32, 40, and 41 should also be allowable as these claims are now directly or ultimately dependent upon claim 1. Further, claims 59-64 also should be allowable.

Conclusion

A favorable decision is solicited. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,



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Date: February 1, 2008